

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/564,622 Confirmation No. 2222  
Applicant : Andre Louis Koekemoer et al.  
Filed : 03/07/2007  
TC/A.U. : 3641  
Examiner : Michael D. David  
Docket No. : MDT-0003  
Customer No. : 23413  
Title : Blast Sequence Control

Commissioner for Patents

March 30, 2009

P.O. Box 1450

Alexandria, VA 22313-1450

APPLICANTS' STATEMENT OF SUBSTANCE OF INTERVIEW

Dear Sir:

This is Applicants' summary of the telephone interview conducted by the undersigned on 23 March 2009 with Examiners Michael D. David and Shane Bergin. Applicants thank both Examiners for the time and courtesies extended during the interview.

1. Applicants requested the telephone interview to discuss the restriction requirement of February 12, 2009. During the interview, the undersigned raised two major issues. One is that inasmuch as this application is a Section 371 national stage filing based on a PCT international application, PCT Rules 13.1 and 13.2 concerning unity of invention should be the standard applied, and not U.S. restriction practice under 37 CFR 1.141-1.146. The undersigned referred to pertinent portions of the MPEP and PCT Rules 13.1 and 13.2, discussed in more detail in Applicants' March 12<sup>th</sup> response to the February 12<sup>th</sup> office action.

2. The second major issue discussed was that under any standard, the restriction requirement set forth in the February 12<sup>th</sup> office action is excessive, and that if it were to stand as is and if no generic claim is allowable, about fifteen divisional applications would be required to present all the pending claims for examination. The Examiners stated that prosecution might well make some of the restrictions moot. As

merely one example of this contention, the undersigned specifically mentioned restriction requirements a1 and a2 and Species 1 and Species 2 appearing at pages 3-4 of the Detailed Action. The undersigned suggested that neither Species a1 and a2 nor Species 1 and Species 2 define independent or distinct inventions. These two particular instances were cited as examples only and not as an exhaustive list of the Applicants' concerns. The undersigned requested a fuller explication of the Examiner's reasons for making the specific species and subspecies identifications of the February 12<sup>th</sup> office action. The undersigned contended that at least some of the species and subspecies identifications are unwarranted by either PCT or U.S. Office requirements.

3. Applicants suggested that the four-way restriction requirement made during the international stage of the PCT application would be appropriate for this national stage U.S. application.

4. Claim 41 was the only claim discussed and it was agreed that that claim could reasonably be subjected to a reasonable (as in the International stage) restriction requirement.

5. No exhibits were shown or mentioned, other than referring to some of the pertinent PCT Rules and 37 CFR Rules as mentioned above and no demonstration was conducted or referred to.

6. No specific prior art was discussed nor were any proposed substantive amendments to the claims discussed. No pertinent matters other than as set forth above were discussed.

7. The general results or outcome of the interview resulted in no agreement but the Examiners indicated that Applicants' response will receive the usual detailed consideration and the appropriateness of the restriction requirement would be reconsidered.

Respectfully submitted,

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Date: March 30, 2009

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